



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Serial No.: 09/832,141

Filed: April 9, 2001

For: SCENTED BOWLING BALLS AND
METHODS

Confirmation No.: 8520

Examiner: W. Pierce

Group Art Unit: 3711

Attorney Docket No.: 1858-4826US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

January 2, 2007
Date


Signature

Erika Gandre
Name (Type/Print)

DECLARATION OF JOHN W. CHRISMAN, III

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I, John W. Chrisman, III, declare that:

1. I am competent to give sworn testimony.
2. I am the President and C.E.O. of Storm Products, Inc., (hereinafter "Storm") a corporation organized under the laws of the State of Utah.
3. I have served in this capacity at Storm since its organization on September 16, 1985.
4. Storm manufactures, markets, and sells a variety of bowling-related products, including bowling balls. The bowling balls that are manufactured, marketed, and sold by Storm are priced at \$60 and higher. These include conventional, unscented bowling balls, as well as scented bowling balls. I am informed and believe that all of our scented bowling balls are within the scope of claims of U.S. Patent Application

Serial No. 09/832,141 (hereinafter the '141 Application) and are manufactured by processes that are within the scope of claims of the '141 Application.

5. At the time of my first declaration in this patent application, Storm currently enjoys a market share of twenty-eight percent (28%) of the bowling ball market in which it participates. *See Exhibit 1* to my declaration of March 27, 2006. Storm's share of the market segment in which its scented bowling balls participate has since increased to more than thirty-six percent (36%).

Commercial Success

6. Prior to selling scented bowling balls, Storm sold fewer than 150,000 balls each year. In 1998, Storm sold 126,321 bowling balls, representing gross revenues to Storm of \$8,885,669.31. In 1999, Storm sold 145,320 bowling balls, representing gross revenues to Storm of \$10,830,114.31.
7. Storm began marketing scented bowling balls in 2000. Our first sales occurred on April 12, 2000.
8. Since that date, Storm's scented bowling balls have consistently been priced higher than other bowling balls in the same market segment. Currently, Storm sells its bowling balls to distributors at \$45 apiece, while other bowling balls in the same market segment are sold for four or five dollars less. *See Exhibit 12.*
9. Although scented bowling balls were only sold for seven and a half months of that year, 59% of the balls we sold in the year 2000 were scented (93,320 scented bowling balls (gross revenues of \$6,510,180.90) of a total of 158,010 total bowling balls (gross revenues of \$11,268,527.16) sold that year). Our scented bowling balls quickly began outselling our unscented bowling balls.
10. After introducing the scented bowling ball, our sales of bowling balls jumped significantly. In 2001, we sold 213,464 bowling balls in all (gross revenues of \$15,122,945.73), 153,504 (gross revenues of \$11,931,312.18) of which were scented, representing 72% of all of the bowling balls we sold that year—an increase of 64% in scented bowling ball sales and 35% of our total bowling ball sales over the previous year. While our total sales increased significantly, our marketing expenditures did not.
11. Since 2001, we have maintained this high level of sales. Our sales of scented bowling balls, at a rate of around 150,000 or more each year, has continued to outpace our pre-2000 total bowling ball sales, which topped out at 145,320. In addition, we have been selling unscented bowling balls at a rate of about 85,000 or more each year. In

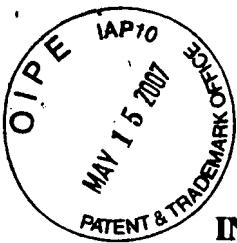
total, we have sold about 240,000 or more bowling balls each year for the past three years.

12. As a result of the commercial success of Storm's scented bowling balls since their introduction, our share of the market in which we participate has increased to about 28%. *See Exhibit 1* to my declaration of March 27, 2006. Storm has become the number two manufacturer of bowling balls in the world. *See Exhibit 2* to my declaration of March 27, 2006.
13. We have sold more than 750,000 scented bowling balls, representing gross receipts to Storm of over \$55,000,000.00.
14. The commercial success that Storm has experienced by selling scented bowling balls, as well as the unexpected results of scented bowling balls, have resulted in a lot of positive press for the company, including news stories on MSNBC.com (which can be viewed at [- 15. In addition, several newspaper and magazine articles demonstrate the commercial success and unexpected results of Storm's scented bowling balls. For example, Storm's scented bowling balls have been the subject of articles in the Wall Street Journal \(Exhibit 3 to my declaration of March 27, 2006\), USA Today \(Exhibit 4 to my declaration of March 27, 2006\), and articles in a number of other national, regional, and local newspapers and magazines \(Exhibit 5 - Exhibit 10 to my declaration of March 27, 2006\), and received a mention in Sports Illustrated \(Exhibit 11 to my declaration of March 27, 2006\).
- 16. As many of these articles indicate, Storm's scented bowling balls have become so popular that fifteen \(15\) of the top pro bowlers, including Professional Bowlers' Association \(PBA\) Hall of Fame member Pete Weber, use them. In fact, nine \(9\) of the twenty \(20\) tournaments in the PBA's 2003-2004 season were won with Storm's scented bowling balls.](http://msnvideo.msn.com/video/default.aspx?replace=ac69fbce-795b-496e-8069-afba1464c46c%2Cd2bcab77-7573-4664-b01b-23d80f866906%2Cb040f3b4-9d39-4df3-a639-528cca5362c2%2C65071231-9da7-441d-af97-bc892000ef4b%2Cf939a571-6194-45f4-a55d-6969dcf5c278%2C6a701688-4518-4f19-b594-33c278721bfd%2C0bb3822d-0125-470c-ac0a-4279c426154b%2C0c863dc8-8618-4f1f-8db4-8a72ea88476d%2C2e1ab49f-83c5-4bc3-b30a-8978d997f1c6&autoStart=0), NBC Television (on)

17. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this day of January, 2007.

John W. Chrismann, III



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March 29, 2006

Date



Erika Gandre
Name (Type/Print)

DECLARATION OF JOHN W. CHRISMAN, III

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, John W. Chrisman, III, declare that:

1. I am competent to give sworn testimony.
2. I am the President and C.E.O. of Storm Products, Inc., (hereinafter "Storm") a corporation organized under the laws of the State of Utah.
3. I have served in this capacity at Storm since its organization on September 16, 1985.
4. In connection with this application I previously signed and submitted a declaration on approximately June 24, 2005 which, among other things, addressed the commercial success Storm has enjoyed with its scented bowling balls. In addition to increased

sales, the scented balls have received substantial positive press, as referenced in my prior declaration.

5. The positive press received by Storm in connection with its scented bowling ball, including that which is referenced in my June 24, 2005 declaration, has not been solicited by Storm. Storm does not have a public relations expert or firm, and did not retain one to generate any of the press which has been received by Storm or its scented bowling ball. Neither Storm, nor any representative of Storm, solicited the newspaper, television, and other media reports and accounts, including those referenced in my prior declaration.
6. The dramatic success of the scented bowling ball, as also described in my June 24, 2005 declaration, was not the result of an increase in marketing expenditures. While Storm has gradually increased its overall expenditures in marketing since 2001, the increases have *followed* the surprising success of the scented bowling ball; they did have not *preceded* that success. It is clear from our sales and marketing expenditure history that Storm has only been able to increase its expenditures because it *first* had increased sales revenues from the scented bowling ball. This is also evidenced by the fact that the percentage of all balls sold by Storm which were scented balls increased significantly without a corresponding emphasis in our marketing of the scented balls. The unexpected and surprising success of the scented balls can only be attributed to the unexpected and surprising market acceptance of the scented balls.
7. Bowling ball performance is critical to most purchasers of bowling balls. For example, most bowlers are concerned with the "hook" of a ball across the hardwood bowling lane. This comes from the spin of the ball, but is impacted by the friction. Accordingly, bowling ball manufacturers are reluctant to add materials to a manufacturing process which may impact the performance or hook of the ball. Storm was surprised to find that adding a fragrance to its bowling balls did not adversely affect the balls' performance. There is even some evidence that it enhances the performance by increasing the move on the hook of the ball at the back end of the lane.
8. The unexpected success of the scented bowling balls, and at least the absence of an adverse effect on performance (if not a possible enhancement of the balls' performance) is evidenced by the surprising acceptance of the balls by professional bowlers. As also described in my June 24, 2005 declaration, at least fifteen (15) of the top pro bowlers, including Professional Bowlers' Association (PBA) Hall of Fame member Pete Weber, use Storm's scented bowling balls. The professionals are so concerned with performance that they would not use a ball that impacted their success negatively in any way.

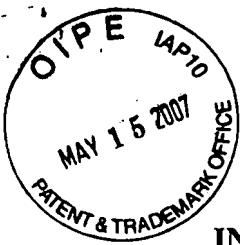
9. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 27th day of March, 2006.



John W. Chrisman, III

Document in ProLaw



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NOTICE OF EXPRESS MAILING

Express Mail Mailing Label Number: EL994848089US

Date of Deposit with USPS: June 28, 2005

Person making Deposit: Steven P. Wong

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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5. Storm currently enjoys a market share of twenty-eight percent (28%) of the bowling ball market in which it participates. *See Exhibit 1.*

Commercial Success

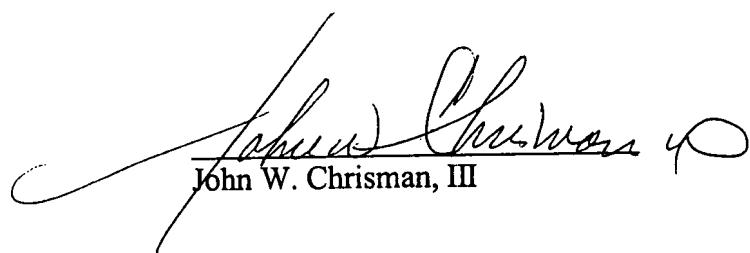
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14. In addition, several newspaper and magazine articles demonstrate the commercial success and unexpected results of Storm's scented bowling balls. For example, Storm's scented bowling balls have been the subject of articles in the Wall Street Journal (Exhibit 3), USA Today (Exhibit 4), and articles in a number of other national, regional, and local newspapers and magazines (Exhibit 5 - Exhibit 10), and received a mention in Sports Illustrated (Exhibit 11).
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16. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated this 24 day of June, 2005.



John W. Chrisman, III

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